

REMARKS

Claims 1, 13, 29, 37, 39-41 and 43 are amended, claims 10, 25, 35, and 62 are cancelled. New claims 64-66 are added. Claims 1, 3-9, 11, 13-22, 24, 26-34, 36-43, and 63-66 are pending in the present application. No new matter is introduced. Applicants wish to thank the Examiner for allowing claims 37, 38, 62, and 63, and finding allowable subject matter in claims 10, 20, 25, 35, and 41.

As an initial matter, Applicants respectfully submit that the Examiner, in responding to Applicants' arguments, improperly uses an external source—an online dictionary—to determine the scope of the claims at issue and to define the disclosed terms of U.S. Patent No. 6,126,524, to Shepherd. To the extent the specification defines these terms, the scope of the claims are to be determined in light of the disclosure in the specification; not a dictionary. *See, e.g., Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) (“Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.”).

The Examiner asserts that “Applicant’s labeling may be correct but is only one interpretation and that does not mean that other items from Shepherd can be considered a particular structure especially when that particular structure incorporates a broad name”. However, Applicants’ “interpretation” was based on the disclosure of Shepherd in order to lay out a proper basis for comparison between Shepherd and the present claims. Therefore, Applicants’ interpretation is the one intended by the disclosure in Shepherd. Shepherd simply does not disclose the interrelationships between the components as disclosed in the claims of the present application. Both the present application and the cited references, in their corresponding disclosures, define each component term and describe their function. Therefore, consulting an external source is unnecessary in this instance.

For example, the Examiner states that “dictionary.com defines the term orifice as: an opening or aperture, as of a tube or pipe; mouthlike opening or hole; mouth; vent.” However, MPEP 608.01(g) provides that the “description is a dictionary for the claims.” In the present instance, the specification of the present application defines the orifice location 19 in Applicants’

Specification at p. 6, line 13, and illustrates this feature in Figure 7 of the present application. Furthermore, the disclosure of Shepherd, explicitly identifies item 38 as the orifice in column 3, line 35, and Figure 3 of Shepherd clearly shows where item 38, or the orifice, is located. The orifice 38 is vertically located where the abrasive supply line 52 meets the lower body 42. *See* Shepherd, Figure 3. Looking at Figures 2 and 4 of Shepherd, the clamp 72, 74 is clearly upstream of the abrasive supply line 52, and thus upstream of the orifice 38.

Yet the Examiner continues to assert that Shepherd discloses a clamp positioned downstream of the orifice location, relying on general dictionary definitions of terms that are clearly intended to have a particular meaning as defined in the descriptions of the corresponding specifications of Shepherd and the present application. However, for reasons discussed above, there is no need to speculate as to which external dictionary definition applies for determining the scope of the claims and of the disclosures in the references.

Therefore, Applicants do not acquiesce to the Examiner's assertions and conclusions. Nonetheless, to expedite the present application toward allowance, the foregoing claim amendments incorporate into the independent claims, subject matter, which the Examiner has indicated to be allowable, to place the application in condition for allowance. The discussion that follows provides a description of these amendments.

Amendment To Allowed Claim 37

The Examiner indicated that claim 37 is allowable. Applicants wish to point out that claim 37 is amended to remove the feature, "a shield coupled to an end region of the cutting head, the shield surrounding an end region of the mixing tube," as this feature does not appear to be necessary for patentability. Applicants therefore respectfully submit that claim 37, and claim 38, which is dependent therefrom, are allowable.

Independent Claim Rejections Under 35 U.S.C. § 103

The Examiner rejects independent claims 1, 29 and 39 under 35 U.S.C. § 103(a) as being obvious over Shepherd in view of U.S. Patent No. 5,234,185, to Hoffman et al. ("Hoffman").

Claim 1 is amended to include all the features that were present in claim 62 of the Amendment filed on June 15, 2006 Amendment ("June Amendment"). Since the Examiner indicated that claim 62 is allowable, claim 1 is also allowable. Furthermore, claims 3-9 and 11 are allowable at least for being dependent from allowable independent claim 1.

Claim 29 is amended to incorporate the features of claim 35, directed to the gimbal wrist arrangement and indicated by the Examiner to be allowable. Accordingly amended claim 29, and claims 30-34 and 36, which are dependent therefrom, are allowable.

Claim 39 is amended to incorporate the features of claim 41, which is directed to the gimbal wrist arrangement and indicated by the Examiner to be allowable. Applicants wish to point out that the feature of the nozzle body removably coupled to the cutting head body such that the clamp holds the cutting head when the nozzle body is separated therefrom, has been removed from independent claim 39 and placed in amended dependent claim 41. Applicants respectfully submit that claim 39 is still allowable because it includes the gimbal wrist arrangement, which is not taught by the cited references. Furthermore, claims 41-43 are allowable at least for being dependent from allowable claim 39.

Claim Rejections Under 35 U.S.C. § 102

The Examiner rejects independent claims 13 and 39 as being anticipated by Shepherd. Claim 13 is amended to incorporate the features of claim 25, which the Examiner has indicated to be allowable. Furthermore, claims 14-22, 24, and 26-28, which are dependent from claim 13, are allowable at least for being dependent from allowable independent claim 13.

In addition, claim 39 is amended to incorporate an allowable feature of claim 41 (before this amendment), as discussed above. Accordingly, claim 39, and claims 41-43, which are dependent therefrom, are allowable over Shepherd.

Dependent Claim Rejections Under 35 U.S.C. §§ 102 and 103

Of the pending dependent claims, the Examiner rejects dependent claims 18, 28, 42, and 43 as being anticipated by Shepherd. Claims 18 and 28 are allowable for being

dependent from allowable claim 13, and claims 42 and 43 are allowable for being dependent from allowable independent claim 39, as discussed above.

Further, of the pending dependent claims, the Examiner rejects dependent claims 3-9, 11, 14-17, 19, 21, 22, 24, 26, 27, 30-34, 36 and 42 as being obvious over Shepherd in view of one or more of Hoffman, U.S. Patent No. 1,701,281, to Sprague, U.S. Patent No. 6,379,214, to Stewart et al., U.S. Patent No. 4,900,198, to Hoaki, and U.S. Patent No. 3,877,334, to Gerber. Claims 3-9, and 11, are allowable for being dependent on allowable independent claim 1; claims 14-17, 19, 21, 22, 24, 26, and 27 are allowable for being dependent from allowable claim 13; claims 30-34 and 36 are allowable for being dependent from allowable claim 29; and claim 42 is allowable for being dependent from allowable independent claim 39, at least for the reasons discussed above in conjunction with the allowability of independent claims 1, 13, 29, 37, and 39.

Applicants reserve the right to make any arguments not made here in support of all the independent and dependent claims, on their own merit, at a future time, or to pursue the subject matter of these claims in other applications, including continuing or divisional applications.

New Claims 64-66

New claim 64 is generally claim 20 rewritten in independent form, which the Examiner has indicated to be allowable. New claim 65 includes the high-pressure fluid assembly having a swivel operable to rotate about two axes, which feature the Examiner has suggested to be allowable with respect to other claims. New claim 66 includes the gimbal wrist arrangement, which feature the Examiner has suggested to be allowable with respect to other claims.

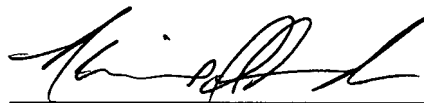
Based on the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Favorable consideration and a Notice of Allowance are earnestly solicited.

Application No. 09/940,689
Reply to Office Action dated May 3, 2007

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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